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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CALIFORNIA HOTEL & LODGING
ASSOCIATION,

Plaintiff,
vs.

CITY OF OAKLAND,

Defendant.

UNITE HERE LOCAL 2850,

Intervenor.

Case No.: 19-cv-01232-WHO

**[proposed] ORDER GRANTING
MOTION TO DISMISS COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Honorable William H. Orrick

1 This matter came before the Court on June 19, 2019, at 2:00 p.m., on Intervenor-
 2 Defendant UNITE HERE Local 2850's motion to dismiss Plaintiff California Hotel &
 3 Lodging Association's Complaint for Injunctive and Declaratory Relief pursuant to
 4 Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure. Upon consideration of
 5 the briefs and argument presented to the Court, and good cause showing, the Court GRANTS
 6 UNITE HERE 2850's motion to dismiss:

7 1. City of Oakland Measure Z (Oakland Municipal Code §§ 5.93.010 *et seq.*) is
 8 not preempted by the California Occupational Health & Safety Act ("CalOSHA") because
 9 Measure Z, by purpose and design, does not establish a workplace safety standard; does not
 10 conflict with CalOSHA; and is not field preempted.

11 2. The California Hotel & Lodging Association's Complaint does not allege any
 12 non-conclusory facts demonstrating that any of its members could bring an as-applied
 13 challenge to the Measure Z, and accordingly, the Association lacks standing to bring a facial
 14 challenge to the Measure. Furthermore, Measure Z's provisions requiring additional
 15 compensation for hotel room cleaners required to clean more than a prescribed square footage
 16 of space and setting a lower minimum-wage if "health benefits" are provided are not
 17 unconstitutionally vague.

18 3. Measure Z's minimum-wage provision is not preempted by the Employee
 19 Retirement Income Security Act.

20
 21 The Complaint (ECF Docket No. 1) is dismissed with prejudice.

22
 23 IT IS SO ORDERED

24
 25
 26 Dated: _____

 27 Hon. William H. Orrick
 28 U.S. District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on May 10, 2019, a copy of foregoing **[proposed] ORDER GRANTING MOTION TO DISMISS COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** was served electronically through the Notice of Filing from the Northern District of California ECF system or by regular U.S. mail upon the counsel not registered with the electronic system.

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Dated: May 10, 2019


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